

## MINUTES

### **WARRICK COUNTY AREA PLAN COMMISSION**

Regular meeting held in Commissioners Meeting Room,  
Third Floor, Historic Court House,  
Boonville, IN  
Monday, February 11, 2013, 6:00 PM

**PLEDGE OF ALLEGIANCE:** A moment of silence was held followed by the Pledge of Allegiance.

**MEMBERS PRESENT:** Guy Gentry, President, Jeff Valiant, Vice President, Mike Moesner, Brad Overton, Richard Reid, and Jeff Willis.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer and Tara Dickerson, Staff.

**MEMBERS ABSENT:** Amanda Mosiman

**MINUTES:** Upon a motion made by Mike Moesner and seconded by Richard Reid, the Minutes of the last regular meeting held January 14, 2013, were unanimously approved as circulated.

**ADOPTION OF RULES AND REGULATIONS:** *Con't from January 14, 2013.*

Mrs. Rector stated she has found out that the Indiana Statue has changed. She stated there are several items in the last couple of years that have changed and needs to update the ordinances to reflect this along with the Rules of Procedure. She said Attorney Doll and her need to go over the changes and she has been trying to get a lot of them together. She stated there are several changes from 2011 and 2012. She asked that the 2012 Rules be adopted for 2013 until this is done.

Upon a motion made by Jeff Valiant and seconded by Brad Overton, the adoption of 2012 Rules and Regulations were approved until updates were made.

Mike Moesner asked Mrs. Rector how she was made aware of changes. He asked if she was emailed or mailed changes or if it was up to her to have to figure out the changes.

Mrs. Rector stated that she was not aware of the changes that have occurred in the last couple of years.

Mike Moesner stated that was the question he was asking. He asked Mrs. Rector if she was notified and asked if it was up to the Board. He stated he thinks it is a backwards way of doing things.

Mrs. Rector stated that she didn't know if it was her responsibility or Attorney Dolls responsibility to know of any new laws that came into effect with zoning. She stated she became aware of it through Don Mottley. She said Mr. Mottley asked at the BZA Meeting if they had new zoning books. Mrs. Rector said she was not aware the books had been updated since 2003. She said Attorney Doll was not aware of it either. Mrs. Rector stated that the zoning books have been changed twice, once in 2009 and 2011. She said the books are done by the Bar Association. Mrs. Rector said she called Krista Lockyear the next day because Krista had promised Mr. Mottley a book. Mrs. Rector stated that Krista Lockyear said she was on the committee and they adopted all these new regulations and if the Board has not changed the

ordinances; they are not up to the new Indiana Code. Mrs. Rector said she had downloaded the new addition and has been going through marking all the changes. Mrs. Rector stated the Area Plan Commission can now approve Variances in subdivisions; Judicial Review has changed on a lot of matters, membership, and biased opinion. Mrs. Rector said the counties rules and ordinances do not reflect these changes and this is serious and must be done.

Mike Moesner said it seemed like it would be their responsibility to notify all the counties of the changes.

Guy Gentry stated the state does so many laws and doesn't even notify the schools. He said it is up to the people the laws affect to become aware of them. He said the school corporation does have other lobbyists that watch for these laws. He said the school corporation has an Indiana Business of school officials that the Executive Director will email them. He said it is like having a watch dog and asked if the Area Plan Commission had one.

Mrs. Rector stated she used to find the changes through a program called Bill Watch. She stated she could go online and put in zoning and they would email her changes. Mrs. Rector said she had been searching for the program the last two weeks and cannot find where she can sign up. She stated she received a new bill from Evansville Planning Commission that is at the House right now for planning and zoning, and basically states that recording of new lots, *Any instrument dividing land requires issuance of a new tax identification number the county Auditor may not endorse the instrument, the Recorder may not record the instrument unless the Plan Commission executes a written confirmation that it has met all the zoning and subdivision regulations and then the Plan Commission has to certify to that and it gets recorded with the document.* Mrs. Rector said it is going to be a lot of checking and a lot more work, but will help out a lot if it gets passed. She stated it is at the House right now. She said she is trying to find the Bill Watch and that maybe Attorney Doll could help her find it.

Attorney Doll said Mrs. Rector could do a topic search in the General Assembly web page of House and Senate Bills.

Mrs. Rector stated she had tried this.

Attorney Doll said he didn't know if they would email Mrs. Rector. He stated the biggest change occurred with public law 1311 and said which frankly everyone is still trying to come to grips with. He said he went to a seminar in December on planning and zoning laws and that is what everyone was still talking about.

Mrs. Rector stated that Attorney Doll is going to have to read the new Initiation of Judicial Review because it is a whole new chapter.

Attorney Doll stated he knew and he is actually in the middle of a case for another county representing the Board of Zoning Appeals where they are using the new one.

Mrs. Rector stated there is a whole lot of work that has to be done and there needs to be a workshop on what the Board can do and what they are able to do with the law. She said Attorney Doll needs to explain what biased means.

Attorney Doll stated he is not sure, he has just picked the new one up tonight as everyone else, and he is not sure the new addition contains the House Bill 1311 changes yet.

Mrs. Rector stated it did.

Attorney Doll asked if they were in the new updated book.

Mrs. Rector stated they were all in the book.

Attorney Doll replied good, because it depends upon what time of the year they printed the book.

Mrs. Rector stated there are some 2012 changes that are not in there and she has marked them with blue tabs; some don't change the procedure but are different.

Attorney Doll stated he contacted West Publishing twice asking for updated versions and was told they had not reprinted them.

#### **ANNUAL REPORT:**

Mrs. Rector stated she gave the report to the Board last month. She said they can see it has been steady for the last 2 or 3 years. She said she spoke to some builders and they think things are going to be better this year but it is going to take 2 or 3 more years for it to get really good.

The President asked if there were any questions from the Board. Being no further questions, the President entertained a motion to accept the Annual Report.

Brad Overton made a motion to accept the Annual Report. The motion was seconded by Richard Reid and unanimously carried.

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The President explained the Rules of Procedure to the audience.

**PC-R-13-04 – Petition of Carl & Srisamon Barniak, OWNER/APPLICANT: Carl & Srisamon Barniak-** to rezone 1.608 acres located on the N side of Sharon Rd. approximately 0' NE of the intersection formed by Jeffries Ln. and Sharon Rd. from "R-2" Multi Family to "C-1" Neighborhood Commercial with a Use and Development Commitment. Ohio Twp. *Complete legal on file. Advertised in the Boonville Standard January 31, 2013.*

Dr. Carl Barniak was present.

The President called for a staff report.

Mrs. Rector said they have all the return receipts from certified mail of notice of this meeting to the adjacent property owners except for Camilla J. Fancher-Anderson & Donald E. Anderson, which was mailed to the correct address. Mrs. Rector asked Dr. Barniak to bring that into the office. Mrs. Rector stated it is to rezone 1.608 acres from "R-2" Multi Family to "C-1" Neighborhood Commercial with a Use and Development Commitment, no minimum required for commercial except for if it was used as a residence then it has to meet residential setbacks. Mrs. Rector stated the comprehensive plan projects the area to be moderate to high density residential area. Mrs. Rector stated the existing land use was a home and doctors office. She said the property to the North and East is zoned "R-2 Multi-Family." She said the property to the West is zoned "A" Agriculture and property to the South across Sharon Rd. is zoned "R-1A" One Family Dwelling. Mrs. Rector stated Mr. Barniak received a Conditional Use approval in

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1987 for a home office which was required under the ordinance at that time. She said in 1995 he did an exempt division to split the property. Mrs. Rector said this is the remainder of his property which is Parcel 1 in the Exempt Division. She stated he has submitted a Use and Development Commitment limiting the use of the Real Estate to the following uses: offices, caterer (commercial kitchen). Mrs. Rector said the Use of the Real Estate shall be limited to the following development requirements: No further construction planned. She said the Health Department is meeting with Dr. Barniak on the 13<sup>th</sup> to see if he will be able to have the catering business at the residence. She said she believes this is for his wife; she wants to make spring rolls. Mrs. Rector stated therefore, Mr. Barniak needs to know approving this zoning does not override any Local or State Health Department regulations and permits. Mrs. Rector said there is no flood plain on the property. She said the existing entrance is off Sharon Rd. She said the stated use is home, doctor's office, and commercial kitchen which would be allowed in the "C-1" zoning. Mrs. Rector stated Bobby Howard, County Engineer, made the determination that if this property is sold for commercial use or any expansion or remodeling is done, a commercial entrance would be required which means the driveway would have to be upgraded. Mrs. Rector stated the application was in order and Mr. Barniak will have to explain his plans.

The President asked Mr. Barniak if he would like to add to the report.

Mr. Barniak stated there were a couple of issues at hand. He said one was the house and facility was built in mind that there would be an office for him. He said at such point as he retires and sells the property; the appeal of the property would be a doctor's office. He said he doesn't imagine somebody buying it as an "R-2" Multi Family house, it wouldn't make since. Mr. Barniak said the money and the effort that went into building the offices in the walk out basement is attractive to somebody else like him who would keep their overhead at a minimum. He said his understanding was for him to sell the property in the future, he said he doesn't know when the future would be, this is an issue he would have to confront so he thought he would confront it now and get it behind him. Mr. Barniak stated the second issue was the commercial kitchen. He said he doesn't know if anything will ever come of it. He said the downstairs area was divided up so he had four treatment rooms. He said each room is 10 X 10 or 11 X 11. He said he uses two rooms, one room for his chiropractic care, and his wife, who is from Thailand does traditional Thai massage for women in the other room. He said the other two rooms across the hall were not use; so they put in a traditional commercial sink, a big freezer, a big refrigerator, and a work table with the thought his wife could on the side, make and sell spring rolls for very light catering. Mr. Barniak stated his wife has done this for 20 years; she makes them and gives them away. He said they have reached the point where it would be nice if someone could actually pay them. Mr. Barniak said there will not be any cooking there. He said she takes the vegetables, chops them up, adds the seasoning, rolls them up, freezes them and then people take them home and fry them. He said for them to do this, they can't do it out of their kitchen upstairs; they have to do it out of a commercial kitchen. Mr. Barniak said the thought was to take advantage of the space, make it into a commercial kitchen, again there is no intent to do any cooking there but having a work table and sink there is enough room to get the job done. Mr. Barniak said she could generate a little money on the side. He said there is really two issues at hand, looking into the future so if they decide to list it with a realtor, a doctor could look at the property and say it would be suitable and could move right in. He said otherwise if this issue is not dealt with now he believes a potential buyer would be discouraged, considering the property any offer they make would be contingent on the Board approving it and the deal would be lost.

The President asked the Board if they had any questions.

Richard Reid asked Mrs. Rector where the closest commercial establishment was located.

Mrs. Rector said it would be the gas station on the corner of S.R. 66 and Sharon Rd.

Mr. Barniak agreed.

Mrs. Rector stated that was the only commercial establishment nearby.

Mr. Barniak said for what it is worth; the catering will not create traffic to the house. He said from the perspective of the neighbors, nothing in any way would change.

The President asked if there were any other questions.

Mr. Gentry asked Mr. Barniak if he were to convert two of the office rooms into a kitchen catering type facility, would it leave two office areas for his chiropractic use.

Mr. Barniak replied yes.

Mr. Gentry asked Mrs. Rector about the residence and if Mr. Barniak could live in a "C-1" like they were doing.

Mrs. Rector said yes. She said a person could get a permit for a residence in a commercial zoning, however it has to meet the residential setback and coverage, and it's the use, what would it be used for. She said Matt, in the Health Department stated, in order to have the kitchen no matter what size or what its use would be, it would have to have its own outside entrance.

Mr. Barniak stated he had two entrances. He said the way it was constructed the fire regulation stated it could only have so much wall before there had to be an outward door. Mr. Barniak said there are actually two doors coming out of the kitchen into the back yard and two doors coming from the kitchen going to the common hallway. He said Matt should be satisfied regarding the regulation.

Mr. Overton asked if this needed to be rezoned to the Neighborhood Commercial in case they sell the property because the Use and Development Commitment wouldn't move with it.

Mrs. Rector stated Mr. Barniak wants to have it rezoned commercial for doctor's office and for his wife to be able to cater.

Mr. Overton asked if this was for the doctor's office or the catering.

Mr. Gentry said the doctor office was already a home occupation. He said if Mr. Barniak would sell his property that anyone else that would want to do this would have to come to the Board for approval.

Mrs. Rector replied yes.

Mr. Gentry said this is why Mr. Barniak would like to rezone to "C-1" right now. He said no other business would be able to exist other than an office.

Mrs. Rector stated right now, Mr. Barniak could have his doctor office in an “R-O” Residential Office zoning district and have an office at his residence. She said this could be used for medical, engineering, tax consulting, and attorney in the “R-O” district but no catering.

Mr. Moesner said Mr. Barniak could have a sign out front too.

Attorney Doll stated signs could be permitted in “R-O”.

Mr. Moesner asked if a sign would be permitted in “R-2”.

Mrs. Rector said no.

Mr. Barniak stated the catering would not be advertised at the street level to the public.

Mrs. Rector stated that honestly she didn’t know if Mrs. Barniak couldn’t do her catering business as a home occupation in an “R-O” if the public would not come there to buy the spring rolls and she delivered.

Mr. Barniak stated that was the consideration he asked the Health Department but they thought it would be proper to have the commercial kitchen built right in to “C-1”.

Mrs. Rector stated to Mr. Barniak that he really wanted to rezone to “C-1” for it to be more sellable in his opinion.

Mr. Barniak replied yes, that in the final tally that is the ultimate goal of this was to avoid the hassle down the road. He said it would be an issue at some point of time.

Mrs. Rector stated it was basically speculative zoning.

Mr. Reid asked if the current zoning was legal.

Mrs. Rector stated yes he is fine now the way it is but not with his wife’s catering, but his office is. She said Mr. Barniak was grandfathered in and is compliant unless he wants to change something.

Mr. Reid asked if the sign too was currently in compliance.

Mrs. Rector said yes. She said in 1987 you could have a sign with a Conditional Use.

Mr. Overton asked if the property were to be rezoned to “C-1” the only thing that would be permitted would be an office.

Attorney Doll asked Mrs. Rector if it could be an office and commercial kitchen.

Mrs. Rector replied yes.

Being no remonstrators present and no further questions from the Board members, the President entertained a motion.

Mike Moesner made a motion to recommend approval of the Rezoning. Jeff Valiant seconded with Guy Gentry voting against; Richard Reid abstaining and all others voting for the motion. Therefore, the motion passed with a recommendation of approval to the County Commissioners.

The applicant was informed this would go to the County Commissioners on March 11, 2013 at 4:00pm.

#### **ORDINANCE AMENDING THE SUBDIVISION CONTROL ORDINANCE:**

AN ORDINANCE TO AMEND ARTICLE II DEFINITIONS SECTION 2 TERMS DEFINED SUBSECTION (45) SUBDIVISION OF LAND AND SUBDIVIDE (ii) OF THE SUBDIVISION CONTROL ORDINANCE IN EFFECT FOR WARRICK COUNTY, INDIANA. *Advertised in the Boonville Standard January 31, 2013.*

The purpose of this ordinance is to allow a minor subdivision in an “A” Agriculture or “CON” Recreation and Conservancy zoning district only.

Mrs. Rector stated this was to clear up a grey area. She said the problem came about in a Site Review meeting with Mr. Ciholas. Mrs. Rector stated Attorney Doll and she talked and said this could have been done for residential purposes or specifically say a parcelization in an “A” Agriculture and Con Recreational district and they decided this is the clearest way. She said when you get into commercial zoning and industrial zoning, it requires drainage plans which you can’t do as a minor subdivision or parcelization. She stated this was the misunderstanding in the meeting.

The President asked if there were any questions from the Board members. Being no further questions, the President called for a motion.

Richard Reid made a motion to approve the ordinance amending the Subdivision Control Ordinance. The motion was seconded by Jeff Valiant and unanimously carried.

#### **OTHER BUSINESS:**

**Formal Complaint** ~ Frank Schnell dba FIT Tire Recycling, OWNER OF RECORD: J.H. Service Co., Inc., by Ronald Witt, Sr., Pres. ~ Tire storage ~ Progress Report.

Mrs. Rector stated there were 703 tires picked up and 2,900 hauled away. She said the total amount of tires cleaned up were 2,197. Mrs. Rector said she received a report from the State went out and reported over 11,000 tires still there. She said he has until June to clean up the property. She stated the State is trying to work with him.

Jeff Valiant asked if the State has this case then does the Area Plan Commission have anything to do with it.

Mrs. Rector said yes.

Mr. Gentry said the Board agreed to give the same length of time to have it cleaned up. He said the final deadline needed to be checked.

Mrs. Rector said she will confirm the date. Mrs. Rector said she spoke to the woman from the State and made notes. Mrs. Rector said the woman from the state said they may grant another extension to Mr. Schnell.

Attorney Doll said with all due respect, Warrick County does not want to assume cleanup responsibility.

Mr. Gentry said he did not want the issue to grow.

Attorney Doll said that was the problem with the haul in of more tires.

Mike Moesner said it looked like Mr. Schnell was making progress.

Attorney Doll said he thought Mr. Schnell was given permission to have 2,000 tires.

Mr. Gentry said yes.

**Formal Compliant** ~ Matt Quick ~ 1799 Metzger Road ~ OWNER OF RECORD: April Duncan ~ Junk Salvage Yard in an "A" Agriculture zoning district. Cease and Desist Notice and Notice to Appear sent 10/9/12. *On 11/13/12 Board granted until 1/11/13 to clean up property. On 1/14/2013 Board granted until February meeting to clean up property or file suit.*

The President called for a staff report.

Mrs. Rector said last month the Board gave Mr. Quick until February 11, 2013, to have the property cleaned up or have the attorney file suit. Mrs. Rector stated Dennis Lockhart, the Building Inspector, went to the property on February 11, 2013, and took pictures. She said Dennis stated *There has been some cleanup. There is still a lot of trash, cars, trucks, and equipment everywhere.* She stated photos has been included in their packets. Mrs. Rector said Mr. Quick called today and informed her that he had everything cleaned up except hay for the horses. She said she told him there seemed to be a lot of things still in the yard. Mrs. Rector stated Mr. Quick said it didn't matter, it was April's property anyway and had no idea what the Board wanted him to clean up and if someone wanted to come tell him he would do more.

Mr. Gentry said the motion had already been made last month. He said Attorney Doll needed to take over from here.

Mrs. Rector said she told Mr. Quick that he had every right to appear at the meeting and he is not there.

Attorney Doll asked if there was ever an address found for Mrs. Duncan.

Mrs. Rector said no.

Attorney Doll said he would have to file suit by publication.



Mr. Gentry said he drove by yesterday and there were piles here and there and said there were vehicles everywhere. He said there is another entrance in behind and that is what the pictures show.

Mrs. Rector stated Mr. Quick wanted to know if the Board wanted him to wash and wax everything.

Mr. Gentry stated the motion of the last meeting was to proceed with the lawsuit.

Attorney Doll asked if he was to proceed.

Mr. Gentry replied yes.

**Formal Complaint** ~ Elizabeth Ison ~ 966 Russell Road ~Alleged Junk/Salvage Yard and operation of trash sorting business in an "A" Agriculture zoning district. Rezoning petition withdrawn January 14, 2013. Given until February meeting to bring property into compliance.

Gary Crickmer was present.

The President called for a staff report.

Mrs. Rector stated there was a complaint filed against this property saying *the property is in a residential area and is being used as a commercial endeavor. They bring trash in, sort through it for aluminum and such to earn money. Four people are hired to do the work. The area is in poor condition.* She said Mr. Crickmer appeared at the Plan Commission meeting in December and was given until the February meeting to either move his business or file a rezoning in order to bring the property into compliance. She said Mr. Crickmer indicated at that meeting he has a contract to maintain repossessed homes and that some of the material is brought from those locations to this location in order for him to recycle the material. She stated he filed a rezoning petition and appeared before the Board last month. Mrs. Rector said at that meeting he withdrew his rezoning and said he would be moving his business to a different location in Boonville. Mrs. Rector said the Board gave Mr. Crickmer until February 11, 2013 to have the exterior of his property cleaned up along with his business being moved from his residence. She said Dennis Lockhart went out to the property on February 11, 2013, took pictures and stated *This site has not been cleaned up. There is still trash and other items all over the area in front of the garage.* Mrs. Rector said she received an email today from Mr. Crickmer in regards to the progress that has or will be made by the end of the day today. She said there is a copy of it in the packet.

Mr. Crickmer said the two 20' sides of the fence had not been done.

Mrs. Rector asked Mr. Crickmer if he understood that when the Board said everything had to be closed in a solid fence or wall were in regards to when he wanted to rezone to commercial. She said it didn't mean that in a residential area he could just put a fence up and have a salvage yard.

Mr. Crickmer replied that was not the intention and understood. He said that he has talked to Todd Eisler and met with him, and Mr. Eisler informed him that the building will be available sooner. Mr. Crickmer said he was waiting for confirmation from Bruce at Aigners that the area would be able to be fenced in. Mr. Crickmer said he was already using some of the area now.

Mrs. Rector asked if Mr. Crickmer understood that the location was in the city and the Board has nothing to do with their planning and zoning. She said he needed to make sure he would be in compliance with them.

Mr. Crickmer said he understood.

Attorney Doll asked Mr. Crickmer if he had a signed lease.

Mr. Crickmer said it was sent.

Attorney Doll asked if it was previously provided.

Mrs. Rector said it was part of the rezoning application.

Mr. Crickmer said he was not sure when the building inspector came out and took pictures today but due to the work load his guys have been working 65-75 hours a week and the progress didn't go as quick as he thought it would because of the work he was doing.

Attorney Doll asked if the lease was signed.

Mr. Crickmer said yes.

Mrs. Rector asked him if Mr. Eisler was his brother in-law.

Mr. Crickmer said yes. He said the end unit on the building is what would be available sooner than the rear part. He said he would probably end up with both parts of the building.

Mrs. Rector said she didn't remember the exact date he could move in.

Mr. Crickmer said it was April 15 but now he could move at the end of March.

Mr. Gentry asked what progress had been made at the property on Russell Rd. and asked what Mr. Crickmer was going to do with it.

Mr. Crickmer said he did not know when the pictures were taken.

Mrs. Rector told him the pictures were taken today.

Mr. Crickmer said he worked all morning on it until after one before his guys started work. He said his guys are still working on the property this evening. Mr. Crickmer said that he takes pictures of what he does but has been so busy all the cameras were out so he did not have a camera to take pictures before he came to the meeting. He said he had intentions of taking pictures but the cameras were needed in the field.

Mr. Gentry asked if there was still stuff there.

Mr. Crickmer said he has some things he has a tarp over but it is all cleaned up and two 20' part of a fence that is not there and he has some stuff on the side that he plans on fencing in. He said the whole

front is cleaned up and has some block and brick that has a tarp over top and it is for his house. He said his mower was outside and has a stack of wood that has a tarp over it.

The President asked if there were any questions from the Board.

Brad Overton asked Mr. Crickmer if he said not all the stuff was for his business like the mowers.

Mr. Crickmer said there is just one mower, the green one which was his.

Mr. Valiant said his concern was once he gets to the new building what would be left.

Mr. Crickmer said it would all be gone. He said his employees would not be coming there either.

Brad Overton asked if the blocks would be gone because he drove past there last night and saw a lot of stuff.

Mr. Crickmer said they have a tarp over it but will be used for his house. He said the intentions are for them to be used for the front of the house.

Mr. Crickmer said he has a boat and things in his barn and not all of it would fit.

The President asked if there were any remonstrators present.

Bill Folz came to the podium. He said he lives next to Mr. Crickmer. He said he had a couple of questions. He asked why the owner of the property was not there. Mr. Folz said early on with the property and trash that actually started in August, he filed a complaint about the trash and did not know Mr. Crickmer was operating a business. He said from the last meeting there was not supposed to be any tarps over machinery, all vehicles were supposed to be removed, which he counted today and there were seven today. Mr. Folz said three of them have not moved since last summer and only today has he seen any cleanup of the property. Mr. Folz said Mr. Crickmer stated last meeting he would clean it up and there was no movement to clean it up and was still running a business at the same time. He said the only movement to get the property cleaned up was today. Mr. Folz said there is already one junk yard on Russel Rd. and they do not need another one. He said he does not believe a thing Mr. Crickmer has to say. Mr. Folz stated he has dealt with him individually to try to bring this to an end and it is just not working. He said he has pictures before today that show there has not been anything done until today. Mr. Folz stated he wants to see something done; he is worn out, and has had enough and wants it cleaned up. Mr. Folz said as of today he has talked to a relator and they told him he would lose \$35,000 dollars on his house if he were to try to sell it. He said it doesn't take a mathematician to say if the economy goes down again his house would be worth nothing. Mr. Folz said he is disabled; he has a two story house and knows the time is going to come where he will not be walking and will need to sell his house. He said with all this going on there is no way he would be able to sell. Mr. Folz said lastly he wants to see something done it has been going on since August and is still trying to resolve it. He said there is only one way to resolve it and that is for Mr. Crickmer to get his stuff out, no more extensions, no more places. Mr. Folz said Mr. Crickmer has told many lies today.

Mrs. Rector stated Mr. Crickmer is not on the deed and his wife is. She stated the wife needed to be here.

Jean McCleary came to the podium and stated she too is a neighbor. Mrs. McCleary presented pictures that were taken an hour before the meeting. She stated Mr. Crickmer had not made any effort to clean the property up. She said Mr. Crickmer still has his employees at his house, she would not say anything about the employees being at the property if they were there to clean it up which they were not; they were there the entire month to unload stuff. She said Mr. Crickmer has no respect towards the Board, his neighbors, and has no intention to clean the property. She said his fence he put up might be on her property. She said a surveyor will be coming out next Thursday to survey her lines. She said his fence is not staked and said that is kind of good, because if it is on her property, it will be easy to take down. She stated he strung string up for the fence and it could collapse on anyone at any time. She said if her kids were down there playing on her property they could get broken bones if it fell.

Mrs. Rector told her the Board will keep her pictures.

Attorney Doll said for the record the pictures were two hours old.

Mrs. McCleary said yes.

Mr. Folz came back up and said he has had a lot of trouble with Mr. Crickmer and the prosecuting attorney is taking a case on his behalf because of harassment and just wanted to let the Board know it will be coming up sometime this month.

Mr. Crickmer said his fence was not hung up by string it was hung by metal rod and has fence stakes and will not fall over on anyone, that he would not do that. He said he ran string from property line to property line and he came in a foot on his side of the property and built the fence. Mr. Crickmer said as far as there being no effort, he stated that, he has been so busy with work. He said the main time it was cleaned up was today and he didn't say he had been cleaning it up all week and has been down there when he can. He said as far as the statement of not believing anything he has to say, that is contradicting Mr. Eisler with the signed lease, and as far as him not making any progress, he thinks the pictures show he has cleaned up all that was out front.

Mr. Gentry said the pictures showed quite a bit of stuff on the other side of the fence right up next to it.

Mr. Crickmer stated those things have not been gone through yet and said it is only three or four feet wide.

Mr. Gentry said it looks like when the fence was put up the items could have been put on the inside.

Mr. Crickmer said that was his intentions.

The President asked what the Board would like to suggest.

Mr. Moesner said the question he had is if the Board gave him more time, what would prevent Mr. Crickmer from doing the same thing; that his work load is too much and can't clean it.

Mr. Crickmer said he will do whatever he has to do.

Mr. Gentry said he wanted to make this a top priority to get cleaned up. He said he understands Mr. Crickmer has to make a living but it needs to be cleaned up. Mr. Gentry asked where his employees were reporting to work.

Mr. Crickmer said they go straight to the job and meet here or there to save gas. He said all the vehicles at his property are his. He said he has four kids and one truck needs to be looked at but it runs and an antique car he has runs and is tagged and then he has a red car that a tree fell and landed on it. He said that is the only car that does not run.

Mr. Gentry asked if it was licensed.

Mr. Crickmer said he took the license off when the tree fell on it.

Mr. Moesner said it is obvious they want it cleaned up and would like to see it done in two weeks and if it is not done, there should be a fine imposed each day it does not meet approval. He said he was willing to give Mr. Crickmer two weeks to clean it up but no more extensions and if it is not cleaned up in two weeks then there should be a per day fine. He asked what the fine could be.

Attorney Doll said under Section 32, it allows the court to assess the fine of not less than 10 dollars per day but not more than \$300.00 per day for each day the property remains in violation. He said he will report to everyone that the courts have assessed fines at \$300.00 a day in prior complaint cases that have been taken to Superior Court. He said one property had a \$26,000.00 lien against it because of the fine.

Richard Reid said the only motivator for Mr. Crickmer would be to slap a fine on him every day until it's done. He said right now he is putting it off because he is trying to make money on his business instead of taking this seriously. He said Mr. Crickmer is not taking the Board seriously at all.

Mr. Crickmer said he apologized if the Board felt that way. He said he was taking it very seriously.

Mr. Reid stated that he has not done anything until today.

Mr. Crickmer said he had been down there some but it is hard to do it all by himself. He said today was the first day he had help.

Mr. Reid said he understood that.

Mrs. Rector asked Mr. Crickmer if he understood that going to court would mean his wife would be the one to go and she would be the one sued.

Mr. Crickmer said it would not go there and he wanted it cleaned up as well as everyone else.

Attorney Doll stated it was not Mr. Crickmer's decision if it goes to court or not.

Mr. Crickmer said he was sorry and he meant if he was given the two week extension.

Mrs. Rector asked Mr. Moesner if it is not cleaned up in two weeks did he want to file suit.

Mr. Moesner said yes that was his intent. He said Mr. Crickmer has two more weeks to get it cleaned up or he would be sued.

Mr. Overton asked who would determine in two weeks if it was cleaned up.

Discussion ensued over who would check in two weeks.

Mrs. Rector asked the Board to look at the pictures and state what needed to be done like all the inoperable vehicles, all the stuff in the yard, everything gone.

Mr. Moesner said everything was to go.

Mr. Crickmer asked if he couldn't keep his block or lumber. He asked if he couldn't have it sitting there.

Mr. Reid asked him if he had a pole barn and if so he could put it in there.

Mr. Crickmer said his boat and other things were in there. He said his question was his neighbor has firewood that has a tarp over it.

Mrs. Rector asked Mr. Crickmer why he couldn't move his blocks to the new building in Boonville.

Mr. Crickmer said that was part of his intentions.

Mrs. Rector said he should do that in the next two weeks. She said having a tarp over it does not do anything for it.

Mr. Crickmer said for future reference he wanted to know what he was allowed to keep on the outside of the house because people have things everywhere and he was just curious.

Mr. Overton asked Mrs. Rector if it would depend on if it was viewed as a public nuisance or not.

Mrs. Rector said for the Board to look at the pictures and if they meant for all of it to be gone. She said everything in front of the building and all that is in the back.

Mr. Moesner said yes and everything that is loose.

Discussion ensued on what was left and what needed to be picked up.

Attorney Doll read Mr. Crickmer the county ordinance definition of junk. He said Mr. Crickmer could move items to the inside of his building with the doors closed.

Mr. Crickmer asked if that included any wood.

Attorney Doll said Indiana does not define firewood which is used to heat. He said firewood is not junk but if he has building materials stacked in a pile or under a tarp he will argue to the court that it is junk. He told Mr. Crickmer if he wanted to saw it into 18 inch length and prove that he is going to use it in a fireplace he can make that argument.

Mr. Crickmer said he went through some of it and some is bad.

Attorney Doll said that is where Mr. Crickmer is headed. He stated he suspects what is going to happen is somebody is going to make a motion directing him on a date certain which he is guessing would be two weeks from tomorrow morning which would be the morning of the 26<sup>th</sup> day of February to file suit.

Mr. Gentry stated the motion was already made to file suit in two weeks if not cleaned up.

Attorney Doll asked Mr. Crickmer if he understood everything and he did not want Mr. Crickmer to walk out with any misunderstanding that he is going to get a second chance or third chance. Attorney Doll said whatever date he is told to sue he does. He said he can set his watch to it.

Mr. Reid asked the Board if they could make the fine retroactive.

Attorney Doll said no. He said they can't assess the fine it has to be set through the court. He said the fine can be set by the judges in the court.

Being no further questions Mike Moesner made a motion that the property has to be cleaned up by February 25, 2013 and on February 26, 2013, President and Executive Director will inspect the property and if it is not cleaned up, Attorney Doll is to file suit. Richard Reid seconded and the motion was unanimously carried.

**ZONING DETERMINATIONS** – *Con't from November 13, 2012, December 17, 2012, and January 14, 2013.* To be removed from the agenda at this time until new codes are reviewed.

Winery  
Domesticated animals

Mrs. Rector stated there are new codes regarding agriculture and wineries and would like Attorney Doll and her go over everything.

**ATTORNEY BUSINESS:**

None

**EXECUTIVE DIRECTOR BUSINESS:**

Mrs. Rector said she has a picture on Overland Dr. of the burnt down residence that is no longer there. She asked Attorney Doll if he filed the law suit on Don Adams.

Attorney Doll said the lawsuit is in his computer he has not filed it but can file it tomorrow.

Mrs. Rector stated that she had Dennis go take pictures of the property. She said Dennis had gone three times since the last meeting. She said on January 24, 2013, there were five cars sitting behind the garage, on January 31, 2013 there were five cars on the property but four were different cars, and went on February 6, 2013 and reported *There seems to be cars moving in and out.* Mrs. Rector said in looking at the photos he submitted, it appears the five cars from January 31, 2013 are in the same location but he added two more to them for a total of seven. Mrs. Rector stated to Attorney Doll that the pictures could

be added to the lawsuit. Mrs. Rector said it seems he is switching the cars in and out and is just keeping a less amount of them.

Mr. Gentry asked if the motion had already been made to file suit.

Attorney Doll said yes.

Mr. Gentry stated that the lawsuit needed to be filed tomorrow.

Attorney Doll said ok.

Mrs. Rector asked Attorney Doll if he has filed the Rainey case.

Attorney Doll said he doesn't have it back from the judge but has filed it.

Discussion ensued on how to bring the ordinance up to date.

Being no other business, Richard Reid made a motion to adjourn the meeting. Jeff Valiant seconded, and the motion was unanimously carried, the meeting adjourned at 7:30 p.m.

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Guy Gentry, President

ATTEST:

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Sherri Rector, Executive Director